

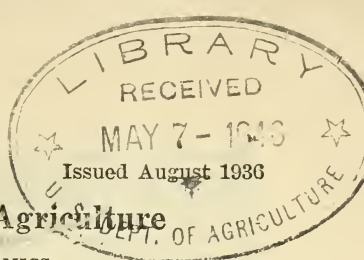
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## United States Department of Agriculture

BUREAU OF AGRICULTURAL ECONOMICS

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 93, SECOND  
REVISION

### RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION AND CERTIFICATION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS

(REVISED JUNE 1936)

Under an Act of Congress (49 Stat. 1421-1459) Approved June 4, 1936

#### ORDER OF PROMULGATION

By virtue of authority vested in the Secretary of Agriculture by the provision in the act of Congress entitled "An Act making appropriations for the Department of Agriculture \* \* \* for the fiscal year ending June 30, 1937, and for other purposes," approved June 4, 1936, authorizing the establishment of an inspection service for perishable farm products, I, R. G. Tugwell, Acting Secretary of Agriculture, do prescribe and promulgate the following rules and regulations to be in force and effect on and after July 1, 1936, and as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority. These rules and regulations shall supersede the rules and regulations approved by the Secretary of Agriculture January 14, 1931, under Service and Regulatory Announcements No. 93, revised, and amendments thereto, except that the standards set forth in amendment no. 1 shall continue in effect as stated therein.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the city of Washington, this 24th day of June 1936.



*R. G. Tugwell*  
Acting Secretary of Agriculture.

### RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION AND CERTIFICATION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS FOR QUALITY AND CONDITION

#### Regulation 1.—Definitions

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean—

*Paragraph 1. Act.*—The following provision of an act of Congress entitled "An act making appropriations for the Department of Agriculture \* \* \* for the fiscal year ending June 30, 1936, and for other purposes," approved May 17, 1935 (49 Stat. 247, or any future act of Congress conferring like authority):

"For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and

consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, cottonseed, tobacco, fruits and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the Department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

*Par. 2. Secretary.*—Secretary or Acting Secretary of Agriculture of the United States.

*Par. 3. Bureau.*—The Bureau of Agricultural Economics of the United States Department of Agriculture.

*Par. 4. Person.*—Individual, partnership, corporation, or association.

*Par. 5. Inspector.*—An employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the quality and condition of products under the act.

*Par. 6. Products.*—Fruits, vegetables, nuts, and other perishable farm products not covered by other regulations under the act.

*Par. 7. Office of Inspection.*—The office of an inspector of products covered by these regulations.

*Par. 8. Inspection certificate.*—A certificate of the quality or condition of products issued by an inspector under the act.

*Par. 9. Interested party.*—Any person having a financial interest in the products involved, including the shipper, the receiver, or the carrier, or any authorized person in behalf of such party.

*Par. 10. Regulations.*—Rules and regulations of the Secretary under the act.

### Regulation 2.—Administration

**SECTION 1.** The Chief of the Bureau is charged with the administration of the provisions of the act, and these regulations.

### Regulation 3.—Where Service is Offered

**SECTION 1. Inspection—Where made.**—Products may be inspected at points indicated in paragraphs 1, 2, and 3 of this section whenever an official inspector is available.

*Par. 1. Shipping points.*—Inspection is available in all States with which the Bureau has entered into cooperative agreements providing for this service.<sup>1</sup>

*Par. 2. Designated markets.*—The following are designated as important central markets at which products may be inspected under the act:

Albany, N. Y.	Honolulu, Hawaii.	Philadelphia, Pa.
Atlanta, Ga.	Houston, Tex.	Pittsburgh, Pa.
Baltimore, Md.	Indianapolis, Ind.	Portland, Oreg.
Boise, Idaho.	Jacksonville, Fla.	Providence, R. I.
Boston, Mass.	Kansas City, Mo.	Rochester, N. Y.
Buffalo, N. Y.	Los Angeles, Calif.	Sacramento, Calif.
Chicago, Ill. <sup>1</sup>	Memphis, Tenn.	St. Louis, Mo.
Cincinnati, Ohio.	Milwaukee, Wis.	Salt Lake City, Utah.
Cleveland, Ohio.	Minneapolis, Minn.	San Diego, Calif.
Columbus, Ohio.	Newark, N. J.	San Francisco, Calif.
Denver, Colo.	New Haven, Conn.	San Juan, P. R.
Detroit, Mich.	New Orleans, La.	Seattle, Wash.
Fargo, N. Dak.	New York, N. Y. <sup>1</sup>	Springfield, Mass.
Fort Worth, Tex.	Norfolk, Va.	Washington, D. C. <sup>1</sup>
Harrisburg, Pa.	Oklahoma City, Okla.	Wilkes-Barre, Pa.
Hartford, Conn.	Omaha, Nebr.	

<sup>1</sup> Regional supervisory office. New York is supervisory headquarters for the territory east of Ohio and north of Maryland. Chicago is supervisory headquarters for the territory which includes the Lake States west of Pennsylvania, the Mississippi Valley, and Texas. Washington is supervisory headquarters for the Atlantic States south of Pennsylvania and Delaware. Full information as to places where shipping point inspection is available may be obtained by addressing the Bureau of Agricultural Economics, Washington, D. C.



*Par. 3. Other points.*—Inspection may be made at any point near a designated market under conditions provided in regulation 7, section 1, paragraph 5, to the extent permitted by the time of the nearest inspector.

#### Regulation 4.—Inspection Service

**SECTION 1. *Kind of service.***—Inspection of products may be made according to quality or condition.

**SEC. 2. *Who may obtain service.***—An application for inspection may be made by any financially interested person or his authorized agent, including Federal, State, county, and municipal governments, and common carriers.

**SEC. 3. *How to make application.***—Application for inspection may be filed in the office of inspection or with an inspector. It may be made in writing, orally, by telegraph, or telephone. If made orally the inspector may require that it be confirmed by applicant in writing or by telegraph, stating the facts required by section 4 of this regulation. Application may be made for one or more lots, or may be a blanket application for inspection of all designated lots of a given commodity within a given period, or for all designated lots loaded or received at a given point.

**SEC. 4. *Form of application.***—Each application for inspection shall state (a) the name and post-office address of the applicant and of the person, if any, making the application in his behalf; (b) the name and post-office address of the shipper; (c) the kind and quantity of the products involved; (d) the financial interest of the applicant (except the State) therein; (e) the identification of the products by (1) grade, brand, or other marks, if possible, and (2) car initials, car number, and name of carrier or number of truck or name of boat, if possible; (3) name and location of store, warehouse, or other place where the products are located; or (4) any other necessary information; and (f) the particular quality or condition concerning which inspection is requested, to which may be added the particular time and place at which it is desired that the inspection be made; (g) the name and address of the receiver when the lot is to be inspected in a receiving market; (h) the name of the shipping point and of the destination when known, and such other information as may be required by the Chief of Bureau.

**SEC. 5. *When application deemed filed.***—An application shall be deemed filed when delivered to the proper office of inspection. A record showing the date and time of filing shall be made in such office.

**SEC. 6. *When application may be rejected.***—An application may be rejected by the inspector in charge of the office of inspection in which it is filed, for noncompliance with the act or any applicable regulation thereunder, and such inspector shall immediately notify the applicant of the reasons for such rejection.

**SEC. 7. *When application may be withdrawn.***—An application may be withdrawn by the applicant at any time before the service is performed upon payment of any expenses incurred in connection therewith.

**SEC. 8. *Authority of agent.***—Proof of the authority of any person applying for inspection in behalf of another may be required in the discretion of the inspector.

**SEC. 9. *Accessibility of product.***—The applicant shall cause the products for which inspection is requested to be made accessible for inspection and to be so placed as to disclose their quality or condition.

**SEC. 10. *Basis of service.***—Inspection and certification for quality or condition shall, unless the applicant shall request otherwise, be based upon the official and tentative standards of the United States Department of Agriculture or of any State or foreign country or shall be by description where official standards are lacking.

**SEC. 11. *Order of inspection.***—Inspection shall be made in the order in which applications are received, except that precedence shall always be given (1) to the inspection of lots involved in Perishable Agricultural Commodities Act complaints and (2) to appeal inspections.

**SEC. 12. *Financial interest of inspector.***—No inspector shall inspect any products in which he is directly or indirectly financially interested.

**SEC. 13. *Postponing inspection.***—If the inspector has reason to believe that because of latent defects due to climatic or other conditions he is unable to determine the true quality or condition of the product, he shall postpone examination of the product for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition.

SEC. 14. *Certificate—form of.*—Certificates shall be issued on forms approved by the Chief of the Bureau, provided, that when application for inspection is made by any branch of the Federal Government or by a public institution or by anyone, for the purpose of determining whether food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by appropriate stamp or mark on such products or the containers thereof, or otherwise, in the discretion of the inspector, provided further, that memoranda of inspections showing the grades of individual growers' lots offered for manufacturing or other purposes may be issued in lieu of certificates on forms approved by the Chief of the Bureau.

SEC. 15. *Certificates—issuance.*—The inspector shall sign and issue a separate certificate for each lot of products inspected by him, except that when an inspection is restricted to condition a single certificate may be issued to cover all lots in a car. Each kind of fruit or vegetable shall constitute a separate lot, but different varieties of the same kind of fruit or vegetable, except peanuts, pecans, and other nuts, shall not be so considered.

SEC. 16. *Disposition of certificates.*—The original certificate and not to exceed two copies, if requested prior to issuance, shall be immediately delivered or mailed to the applicant or a person designated by him. One copy shall be filed in the office of the inspector, or of the cooperating agency, and one copy forwarded to the Chief of the Bureau, except that memoranda of inspections issued as provided in section 14 of this regulation need not be so forwarded. Copies of certificates shall be kept on file until other disposition is ordered by the Chief of Bureau. In the case of any product with respect to which a marketing agreement or license is in effect under the provisions of the Agricultural Adjustment Act, as amended, copies of certificates covering inspection of such products shall be delivered to the control committee or supervisory body or bodies established thereunder upon the direction of the Secretary or his authorized agent, subject to such terms and conditions as the Secretary may prescribe, for the purpose of effectuating the purposes of said marketing agreement and license and the said Agricultural Adjustment Act. Copies will be furnished to other financially interested parties as outlined in regulation 7, section 1, paragraph 6.

SEC. 17. *Advance information.*—Upon request of an applicant, all or any part of the contents of the certificates may be telegraphed or telephoned to him, or to any person designated by him, at his expense.

### Regulation 5.—Appeal Inspection

SECTION 1. *When appeal may be taken.*—An application for appeal inspection may be made whenever any financially interested person is dissatisfied with the determination stated in the original certificate.

SEC. 2. *How to obtain.*—Appeal inspection may be obtained by the applicant or other person financially interested in the product by filing a request for such appeal inspection (a) in the inspection office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) in any regional supervisory inspection office, or (d) with the Chief of the Bureau. The application for appeal shall state the reasons therefor and may be accompanied by a copy of any previous inspection certificate or inspection report, or any other information which the applicant shall have received regarding the quality or condition of the product at the time of the original inspection. Such application may be made in writing or orally, by telegraph, telephone, or otherwise. If made orally the person receiving the application may require that it be confirmed in writing.

SEC. 3. *Record of filing time.*—A record showing the date and time of filing such application shall be immediately made by the receiver thereof.

SEC. 4. *When appeal may be refused.*—If it shall appear that the reasons stated in an application for appeal inspection are frivolous or unsubstantial, or that the quality or condition of the products has undergone a material change since the original inspection, or that the products cannot be made accessible for a thorough examination of all parts of the lot, or the identity has been lost, or these regulations have not been complied with, the application may be denied.

SEC. 5. *When appeal may be withdrawn.*—Any application for appeal inspection may be withdrawn by the applicant at any time before the inspection has been made upon payment of any expenses incurred in connection therewith.



**SEC. 6. When a second inspection is not an appeal.**—Inspections requested to determine factors of quality or condition which may have undergone material change since the original inspection, shall not be considered appeal inspections within the meaning of this regulation. A second inspection requested for the purpose of securing an up-to-date certificate, but where the applicant does not question the correctness of the original certificate covering the lot in question, shall not be considered an appeal inspection within the meaning of this regulation.

**SEC. 7. Order in which made.**—Appeal inspections shall as far as practicable be made at time requested by applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except inspections covering lots involved in Perishable Agricultural Commodities Act cases.

**SEC. 8. Who shall pass upon appeals.**—Appeal inspections shall be made by inspectors specially designated therefor by the Chief of the Bureau, and such inspections shall be conducted jointly by two inspectors when practicable. No appeal inspector shall pass upon an appeal involving the correctness of a certificate issued by him.

**SEC. 9. Appeal findings.**—After an appeal inspection has been made a certificate designated as "Appeal inspection certificate" shall be signed and issued, referring specifically to the original certificate and stating the quality or condition of the product, as shown by the appeal inspection. In all other respects the provisions of regulation 4 shall apply to such appeal inspection certificate, except that if the applicant for appeal inspection be not the original applicant a copy of the appeal inspection certificate shall be mailed to the original applicant.

**SEC. 10. Superseded certificates.**—When an inspection certificate shall have been superseded under these regulations by an appeal inspection certificate such inspection certificate shall become null and void and shall not thereafter represent the class, quality, or condition of the product described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for appeal inspection is filed, the officer issuing the appeal inspection certificate shall forward notice of such issuance and of the cancelation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

### Regulation 6.—Licensed Inspectors

**SECTION 1. Who may be licensed.**—Persons showing proper qualifications may be licensed by the Secretary as inspectors of products which may be inspected under the act. All such licenses shall be countersigned by the supervising inspector under whose direction the licensee is to make inspections, or by such other official as may be designated by the Chief of the Bureau.

**SEC. 2. Suspension of licenses.**—Any license may be suspended, pending final action by the Secretary, by any official by whom it may be countersigned or by the Chief of the Bureau whenever such official shall deem such action to be for the good of the service. Within 7 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

### Regulation 7.—Fees and Expenses

**SECTION 1. Amount of, rates, etc.**—For each lot of products inspected a fee and expenses determined in accordance with paragraphs 1, 2, 3, 4, 5, and 6, of this section, and section 4, or such supplemental schedules as may be furnished the inspector from time to time by the Secretary, shall be paid by the applicant.

**Paragraph 1. Basis for charges.**—The fee for each lot of products inspected by a salaried inspector acting exclusively for the Department of Agriculture, except peanuts, pecans, and other nuts, and under section 14 of regulation 4, shall be on the following basis: \$4 when the quantity involved is more than one-half of a carload of the maximum customary size of such products but not more than a full carload, and \$2.50 when the quantity involved is not more than one-half of such carload; but the maximum fee for any carload not exceeding the maximum customary size shall be \$7.50. For each lot of peanuts, pecans, or other nuts inspected, except under section 14 of regulation 4, the fee shall be \$5 when the quantity involved is not more than a full carload, provided that different grades and varieties of peanuts shall be considered separate lots.

When the lot involved is in excess of a carload or is not contained in cars, the quantity shall be calculated in terms of carloads and fractions thereof of the maximum customary size for such carloads and the rates aforesaid applied, except that when inspections are made on which formal certificates are not issued, as provided in regulation 4, section 14 or when the products inspected cannot readily be calculated in terms of carlots, or when the services rendered are such that a charge on the carload basis would be inadequate or inequitable, charges for inspection may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of not to exceed \$2 per hour, or the charges may be based upon the number of pounds or number of containers examined, provided such charges are in substantial conformity with the hourly or carload rate.

*Par. 2. Employee of United States Department of Agriculture.*—Fees for inspections made by a licensed inspector acting exclusively for the Bureau shall be those provided in the terms of his contract of employment.

*Par. 3. Under cooperative agreement.*—Fees for inspections made under cooperative agreements shall be those provided for by such agreements.

*Par. 4. For appeal inspection.*—Fees for appeal inspections of all products shall be double those for original inspections, except that when it is found that there was a material error in the determination based upon the original inspection no fee will be charged and except that appeal inspection for Government agencies shall be at actual cost, but the maximum fee for the reinspection of a single car shall not exceed \$15.

*Par. 5. For traveling expenses, etc.*—Such further charges may be made for traveling expenses and other items paid or incurred by the Bureau in connection with an inspection made at a place where no inspector is located, or appeal inspection where the services of a second inspector are required, as will reimburse the Bureau. These charges shall be included with the fee for inspection on the bill furnished the applicant.

*Par. 6. For copies of inspection certificates.*—For not to exceed three copies of a certificate furnished to any person financially interested in the products involved, except as provided in section 14 of regulation 4, the fee shall be \$1, but the maximum fee for such copies in the case of a single car shall not exceed \$5.

*Sec. 2. How fees shall be paid.*—Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the inspector, and in advance if required by the inspector.

*Sec. 3. Disposition of fees.*—The fees covered by paragraphs 1, 2, and 3 of section 1 of this regulation shall be disposed of as follows:

*Paragraph 1.* Fees for inspections made by salaried inspectors acting exclusively for the Bureau shall be promptly remitted to the Bureau.

*Par. 2.* Fees for inspections made by a licensed inspector acting exclusively for the Bureau, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the Bureau.

*Par. 3.* Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State as may be due the United States shall be remitted to the Bureau.

Fees covered by paragraphs 4, 5, and 6 of section 1 of this regulation shall be remitted to the Bureau.

*Sec. 4. Refunds.*—Upon filing a declaration of his intention to avail himself of this privilege any applicant who shall have paid for 500 or more carload inspections of fruits and vegetables in any one market within the period of 1 year immediately following such filing shall receive a refund from the Department at the rate of \$1.50 per carload for the first 500 cars. For inspections in excess of 500 cars the fee shall be \$2.50 per carload for the remainder of the year unless the total number exceeds 1,000, in which event the applicant shall be entitled to a further refund at the rate of \$0.50 per carload for the entire number so inspected. For inspections in excess of 1,000 cars the fee shall be \$2 per car during the remainder of the year: *Provided*, That if at any time before the first 1,000 cars are inspected for such applicant the Bureau is unable during a continuous period of 30 days to furnish inspections when requested said refund of \$1.50 per car shall be made on such cars as have been inspected up to that time on which a refund has not been made.



**Regulation 8.—Miscellaneous**

**SECTION 1. *Fraud or misrepresentation.***—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by any applicant for inspection or reinspection or any willful violation of these regulations may be deemed sufficient cause for debarring the person guilty thereof from any further benefits of the act.

**SEC. 2. *Publication.***—Publication under the act and these regulations shall be made in Service and Regulatory Announcements of the Bureau and such other mediums as the Chief of the Bureau may from time to time designate for the purpose.

**SEC. 3. *Political activity.***—All inspectors authorized, either by appointment or license from the Secretary of Agriculture, to issue inspection certificates under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

**SEC. 4. *Identification.***—All inspectors shall have in their possession at all times Bureau identification cards, and shall identify themselves by such cards on request.

